

EXHIBIT 1 BUH
DATE 2-4-09
HB 284

February 2, 2009

From: Mark Garnaas, MD
500 W Broadway
Missoula, MT 59804
Chair, Montana Section, American College of Obstetricians and Gynecologists

To: Montana State Legislature
Committee on Business and Labor
Committee on Human Services

Re: HB 284 and HB 257

Dear Committee Members,

I would like your committees to be informed that the Montana section of the American College of Obstetricians and Gynecologists, which represents the 77 members of this organization who serve our female citizens of Montana with obstetrical and gynecological care, strongly endorse the passage of both HB 284 and HB 257. The college believes the implementation of these statutes will significantly enhance the health and lives of Montana women, of whom many currently are denied access to fundamental and life-saving prescription medications.

Respectfully,

Mark Garnaas, MD
Chair, Montana Section, American College of Obstetricians and Gynecologists

Dear Committee Members,

I strongly support passage of the Patient Protection Act, HB 284, requiring pharmacies to dispense prescriptions as part of their professional responsibility to provide healthcare services to the public. If a pharmacy is unable to fill legally prescribed prescriptions because of an objecting staff person, it should explore all reasonable options before discontinuing stocking the drug.

On a personal note, as a health care provider myself, my job is to serve, not judge, those requiring care.

Sincerely,
Rachel Rockafellow, MSN, RN, CWOCN
1202 South Spruce Drive
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ANDREW M. MALANY M.D.

Fellow American College of Obstetricians and Gynecologists

45 Medical Park Drive
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February 2, 2009

Business and Labor Committee

Montana Legislature
Helena MT 59601

Dear Committee Members,

I am writing this letter in support of HB284. I am a practicing OB/GYN physician in Helena. As such, I see many female patients a week and write several prescriptions for the majority of these patients. One of the most common prescriptions that I write is for birth control. The patients that ask for these prescriptions are taking the responsibility to prevent unwanted pregnancies and therefore should have full access to these medications. As you know, these medications are dispensed from their local pharmacy.

Unfortunately, there are several pharmacists in the state of Montana that do not wish to dispense birth control pills to patients for personal reasons. This has the potential to deny my patients their right to a medication that will prevent them from becoming pregnant. There are a high percentage of unwanted pregnancies in the state of Montana already; access to these proven methods of birth control should not be hindered.

I understand that some pharmacists believe that dispensing birth control pills undermines their personal beliefs. This bill would allow them to follow their beliefs and still allow my patients access to their medications. If the pharmacy does not carry birth control pills then they would help the patient locate another pharmacy that does. If the pharmacy is in a rural part of the state and no other pharmacy is nearby then the medication would need to be ordered in an expedited fashion for the patient.

I believe this bill is fair and should not place undue restraints upon a pharmacist and will allow Montana women access to this important medication. Thank you for your time and consideration in this important subject.

Sincerely,

Andrew M. Malany M.D.

CODE OF ETHICS FOR PHARMACISTS

PREAMBLE

Pharmacists are health professionals who assist individuals in making the best use of medications. This Code, prepared and supported by pharmacists, is intended to state publicly the principles that form the fundamental basis of the roles and responsibilities of pharmacists. These principles, based on moral obligations and virtues, are established to guide pharmacists in relationships with patients, health professionals, and society.

I.A pharmacist respects the covenantal relationship between the patient and pharmacist.

Considering the patient-pharmacist relationship as a covenant means that a pharmacist has moral obligations in response to the gift of trust received from society. In return for this gift, a pharmacist promises to help individuals achieve optimum benefit from their medications, to be committed to their welfare, and to maintain their trust.

II.A pharmacist promotes the good of every patient in a caring, compassionate, and confidential manner.

A pharmacist places concern for the well-being of the patient at the center of professional practice. In doing so, a pharmacist considers needs stated by the patient as well as those defined by health science. A pharmacist is dedicated to protecting the dignity of the patient. With a caring attitude and a compassionate spirit, a pharmacist focuses on serving the patient in a private and confidential manner.

III.A pharmacist respects the autonomy and dignity of each patient.

A pharmacist promotes the right of self-determination and recognizes individual self-worth by encouraging patients to participate in decisions about their health. A pharmacist communicates with patients in terms that are understandable. In all cases, a pharmacist respects personal and cultural differences among patients.

IV.A pharmacist acts with honesty and integrity in professional relationships.

A pharmacist has a duty to tell the truth and to act with conviction of conscience. A pharmacist avoids discriminatory practices, behavior or work conditions that impair professional judgment, and actions that compromise dedication to the best interests of patients.

V.A pharmacist maintains professional competence.

A pharmacist has a duty to maintain knowledge and abilities as new medications, devices, and technologies become available and as health information advances.

VI.A pharmacist respects the values and abilities of colleagues and other health professionals.

When appropriate, a pharmacist asks for the consultation of colleagues or other health professionals or refers the patient. A pharmacist acknowledges that colleagues and other health professionals may differ in the beliefs and values they apply to the care of the patient.

VII.A pharmacist serves individual, community, and societal needs.

The primary obligation of a pharmacist is to individual patients. However, the obligations of a pharmacist may at times extend beyond the individual to the community and society. In these situations, the pharmacist recognizes the responsibilities that accompany these obligations and acts accordingly.

VIII.A pharmacist seeks justice in the distribution of health resources.

When health resources are allocated, a pharmacist is fair and equitable, balancing the needs of patients and society.

Adopted by the American Pharmacists Association membership, October 27, 1994.

Towns Served by One Pharmacy
****Does not include population for surrounding area****

Community	Population	Nearest Pharmacy	Distance (miles)	Roundtrip Distance (miles)
Big Sandy	703	Havre	35.05	70.1
Big Sky	1221	Bozeman	44.23	88.46
Big Fork	1421	Kalispell	18.08	36.16
Boulder	1300	Helena	30.41	60.82
Broadus	451	Miles City	79	158
Chinook	1386	Harlem	21.39	42.78
Circle	569	Glendive	49.14	98.28
Corvallis	443	Hamilton	6.06	12.12
Ekalaka	410	Baker	36.48	72.96
Eureka	1017	Whitefish	51.19	102.38
Fairfield	659	Choteau	17.71	35.42
Fairview	709	Sidney	11.26	22.52
Florence	878	Stevensville	9	18
Frenchtown	695	Missoula	16	32
Gardiner	846	Livingston	54.28	108.56
Harlem	848	Chinook	21.39	42.78
Lolo	3388	Missoula	10.93	21.86
Philipsburg	914	Anaconda	31.08	62.16
Poplar	911	Wolf Point	21.63	43.26
Saint Ignatius	788	Ronan	14.85	29.7
Terry	611	Miles City	38	76
Thompson Falls	1321	Plains	25.31	50.62
Troy	957	Libby	18.36	36.72
Victor	859	Stevensville	9.29	18.58
Warm Springs	306	Deer Lodge	15.5	31
West Yellowstone	1177	Big Sky	50.84	101.68
Whitehall	1044	Butte	26.61	53.22
Wolfpoint	2663	Poplar	21.5	43
Average Population	1018		Average (miles)	56.04071429
Total Population	28495			



Planned Parenthood to make case for birth-control at pharmacy meeting

By KATIE OYAN
Associated Press

Montana needs to find a way, either through administrative rule or legislation, to protect consumer access when pharmacists refuse to dispense contraceptives because of religious beliefs, a Planned Parenthood of Montana spokeswoman said Tuesday.

The organization will present its case, along with model language for a new state rule or law, at the Montana Board of Pharmacy's April meeting. One possible strategy would include allowing non-pharmacists to dispense prepackaged birth control, said Stacey Anderson, director of public affairs for Planned Parenthood of Montana.

"Planned Parenthood of Montana believes that pharmacies have a duty to ensure provision of U.S. Food and Drug Administration-approved contraception," she said.

The news follows last week's decision by the Montana Board of Pharmacy to dismiss 11 complaints against a pharmacist in the rural southeastern Montana town of Broadus. The pharmacist, John Lane, announced last year he would no longer dispense birth control or "morning-after" pills because of his religious beliefs. Lane, a Catholic, believes human life begins at conception.

Anderson said in a news release that birth control

refusals are a "disturbing trend" that jeopardize women's health and safety. Lane's decision "highlights the need for a Board of Pharmacy rule or a state statute to protect the health care needs of Montana women," she said.

"With over 90,000 Montana women in need of birth control, widespread pharmacy access ensures that women are able to make the health care decisions that are best for them and their families," she said.

Under state law, pharmacy is a professional practice that affects the public's health, safety and welfare and is subject to regulation and control "in the public interest," Anderson said.

"Similar to other health care and service providers — including hospitals, outpatient clinics, and dental clinic — pharmacies and pharmacists should be regulated to not only protect patients, but also to guarantee nondiscriminatory practices and access," she said.

Anderson said Planned Parenthood of Montana wouldn't be opposed to a policy that permits accommodation of an individual's religious beliefs, "provided that the accommodation does not cause the customer delay or untold barriers to accessing service."

"Customers' access to ser-

vices in-store, without discrimination or delay, is paramount," Anderson said. "In Montana, this accommodation may be achieved through a combination of rule-making and/or statute that expressly protects patients' ability to access care and, in the case of rural Montana where pharmacists are limited, allows non-pharmacists to dispense prepackaged birth control."

Ron Klein, executive director of the Montana Board of Pharmacy, said allowing people who aren't pharmacists to give out birth control would first require action by the state Legislature.

The pharmacy board can create rules but not laws, he said. And currently, "there

is nothing in the statute that requires a pharmacy to stock every drug on the market," Klein said.

He said one concern is that a pharmacy's decision to stop carrying certain drugs, like birth control, could be a business decision. Pharmacies must buy birth control in bulk, and those that can't sell all the pills lose money, Klein said.

If the law requires pharmacies to carry certain drugs, "it might drive a pharmacy under," he said.

Anderson said two states, Washington and Illinois, have established regulations that protect patients' access to prescription drugs and devices, and "duty-to-dispense" bills have been introduced in 11 others.

Good morning, Mr. Chair and members of the committee. My name is Stacey Anderson, I am the Director of Public Affairs for Planned Parenthood of Montana, and we support HB 284 which addresses the issue of pharmacy access in Montana.

As you may or may not be aware, there have been two documented incidents in the past two years of individual pharmacists refusing to fill women's legal prescriptions for oral contraceptives – one in Great Falls and one in Broadus, MT. While the communities of Great Falls and Broadus could not be more different, the effect is the same: women were denied access to healthcare for personal, not professional reasons. In the case of Broadus, this created a significant burden to patients who were denied care because the closest alternative pharmacy was in Miles City, 79 miles away.

There are three primary issues that I would like to address today:

1. Broad-based support for the policies presented in HB 284;
2. The clinical effects of delaying or denying access to pharmacy care;
3. Access in rural Montana is already limited and we need to establish basic guidelines to protect equal access at the pharmacy counter

First – the issue of healthcare refusals – or conscience clauses – is a growing concern for the medical community. Numerous national organizations have taken a position on healthcare refusals and overwhelmingly they support the policies enumerated in HB 284.

American Medical Association – Policy H-120.947 “Preserving Patients Ability to Have Legally Valid Prescriptions Filled.” *Our AMA reaffirms our policies supporting responsibility to patient as paramount in all situations and the principle of access to medical care for all people; and supports legislation that requires individual pharmacists or pharmacy chains to fill legally valid prescriptions or to provide immediate referral to an appropriate dispensing pharmacy without interference. In the event that an individual pharmacist or pharmacy chain refers a patient to an alternative dispensing source, the*

individual pharmacist or the pharmacy chain should return the prescription to the patient and notify the prescribing physician of the referral.

The American College of Obstetricians and Gynecologists. "The Limits of Conscientious Refusal in Reproductive Medicine." Number 385. November 2007. *Physicians and other health care providers have the duty to refer patients in a timely manner to other providers if they do not feel that they can in conscience provide the standard reproductive services that patients request. In resource-poor areas, access to safe and legal reproductive services should be maintained. Providers with moral or religious objections should either practice in proximity to individuals who do not share their views or ensure that referral processes are in place. In an emergency in which referral is not possible or might negatively have an impact on a patient's physical or mental health, providers have an obligation to provide medically indicated and requested care.*

American Pharmacists Association. Issue Brief. "Pharmacist Conscience Clause." March 2008. *APhA recognizes the individual pharmacist's right to exercise conscientious refusal and supports the establishment of systems to ensure patients' access to legally prescribed therapy without compromising the pharmacist's right of conscientious refusal. When this policy is implemented correctly, and proactively, it is seamless to the patient, and the patient is not aware the pharmacist is stepping away from the situation. In sum, APhA supports the ability of the pharmacist to step away, not in the way, and supports the establishment of an alternative system for the delivery of patient care.*

Second, the delay or denial of a legal prescription has real implications for a patient's health. While documented instances of pharmacists refusals have primarily affected contraceptives, the reality in Montana is that access to any prescription drug is at risk without the minimal guidance and leadership offered in HB 284. You may recall that the Montana Board of Pharmacy undertook this issue in April 2008, but the result of that

meeting was that the Board deferred to the Legislature on this issue. Left unchecked, the potential for further refusals implicates a broad range of medical care:

For PPMT's purposes and the prescriptions we provide our patients:

- Treatment of STD/STIs based on personal objections to an individual's lifestyle
 - Increased patient discomfort
 - Risk of escalating infection such as chlamydia
- Treatment of HIV/AIDS patient based on personal objections to an individual's lifestyle.
 - 514 people in Montana have been diagnosed with HIV/AIDS.
- Delay or denial of contraceptives
 - Therapeutic prescriptions for birth control are being denied
 - Endometriosis, migraine, Polycystic Ovarian Syndrome, acne to name a few common therapeutic prescriptions of contraceptives
 - Daily/weekly therapy of contraceptives – any delay or denial potentially can result in an unplanned or unwanted pregnancy

Finally – in Montana there are 28 communities with only 1 pharmacy. The average roundtrip distance to the next pharmacy from those communities is 56 miles with over 28,000 Montanans involved – not including surrounding service areas. For many of these communities, the local pharmacy IS the medical provider in the area. The professionalism and the patient commitment by many of those pharmacies is a testament to the profession, but that also carries with it immense responsibility.

The Montana Board of Pharmacy has deferred this issue to you – the legislative body - to establish the minimum standards that protect those patients who are reliant upon their local pharmacy for medical care. The two documented refusals to fill legal birth control prescriptions revealed the absence of patient protection in the regulation of licensed pharmacies. Montana pharmacy statutes should be enacted not only to establish the credentials and professional standards of the businesses licensed, but also for the benefit and protection of the public.

Planned Parenthood has been working on this issue for a long time – the individual whose prescription was refused in Great Falls called us immediately after it happened. Since then, we have undertaken the task of trying to work with the broader medical & advocacy community to identify creative strategies to balance the issues before us today – sincerely held personal beliefs and protecting patient access. Nothing in HB 284 infringes on conscientious objections. Nothing in HB 284 requires individuals to behave in any way out-of-line with the ethical standards of the pharmacy profession. As you can see from the map and the hand-out, access in Montana is already tenuous in many communities. It is critical that we protect access to healthcare for all of the people of our state and maintain the integrity and vital role that pharmacies play in the provision of healthcare.

I want to thank you for considering HB 284. Planned Parenthood of Montana serves 22,000 men and women across the state, including 16 patients in Powder River County (Broadus) and almost 5000 in Cascade County where the refusals occurred. We should all be committed to protecting healthcare access for Montana's citizens and I urge you to pass HB 284.